

## **Chapter 4 Constitutional Takings Issues Act**

### **Part 1 General Provisions**

#### **63L-4-101 Title.**

This chapter is known as the "Constitutional Takings Issues Act."

Enacted by Chapter 382, 2008 General Session

#### **63L-4-102 Definitions.**

As used in this chapter:

- (1) "Constitutional taking issues" means actions involving the physical taking or exaction of private real property by a political subdivision that might require compensation to a private real property owner because of:
  - (a) the Fifth or Fourteenth Amendment of the Constitution of the United States;
  - (b) Article I, Section 22 of the Utah Constitution; or
  - (c) any recent court rulings governing the physical taking or exaction of private real property by a government entity.
- (2) "Political subdivision" means a county, municipality, local district, special service district, school district, or other local government entity.

Renumbered and Amended by Chapter 382, 2008 General Session

#### **63L-4-103 Applicability of chapter.**

This chapter does not apply when a political subdivision formally exercises its power of eminent domain.

Renumbered and Amended by Chapter 382, 2008 General Session

### **Part 2 Requirements for Political Subdivisions**

#### **63L-4-201 Political subdivisions to adopt guidelines.**

- (1) Each political subdivision shall enact an ordinance establishing guidelines to assist them in identifying actions involving the physical taking or exaction of private real property that may have constitutional taking issues.
- (2) Each political subdivision shall consider the guidelines required by this section when taking any action that might result in the physical taking or exaction of private real property.
- (3)
  - (a) The guidelines adopted under the authority of this section are advisory.
  - (b) A court may not impose liability upon a political subdivision for failure to comply with the guidelines required by this section.
  - (c) The guidelines neither expand nor limit the scope of any political subdivision's liability for a constitutional taking.

Renumbered and Amended by Chapter 382, 2008 General Session

### **Part 3 Appeals**

#### **63L-4-301 Appeals of decisions.**

- (1) Each political subdivision shall enact an ordinance that:
  - (a) establishes a procedure for review of actions that may have constitutional taking issues; and
  - (b) meets the requirements of this section.
- (2)
  - (a)
    - (i) Any owner of private property whose interest in the property is subject to a physical taking or exaction by a political subdivision may appeal the political subdivision's decision within 30 days after the decision is made.
    - (ii) The legislative body of the political subdivision, or an individual or body designated by them, shall hear and approve or reject the appeal within 14 days after it is submitted.
    - (iii) If the legislative body of the political subdivision fails to hear and decide the appeal within 14 days, the decision is presumed to be approved.
  - (b) The private property owner need not file the appeal authorized by this section before bringing an action in any court to adjudicate claims that are eligible for appeal.
  - (c) A property owner's failure to appeal the action of a political subdivision does not constitute, and may not be interpreted as constituting, a failure to exhaust available administrative remedies or as a bar to bringing legal action.

Renumbered and Amended by Chapter 382, 2008 General Session